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ABSTRACT

This paper describes the complaint investigation process for rural remote areas of Nevada as required by the Individuals with Disabilities Education Act (IDEA). Complaints are first filed with the Nevada Department of Education superintendent of public instruction. Complaints can be initiated by anyone and must state what regulations the public agency has violated and provide facts to support this claim. An independent on-site investigation is conducted by a team leader from the Special Education Branch who sends notification regarding the alleged violation to the agency involved, and selects an investigative team that could include university staff, parent advocates, and agency personnel. Team members are provided with appropriate materials to conduct the investigation such as IDEA regulations and various state codes. The team reviews written records that apply to the issue, interviews appropriate district staff, interviews the complainant, and then develops a written decision that addresses each allegation. If there are areas where regulations have been violated, an order coming forth from the report could include the development of policy and procedures to ensure compliance in the future. When violations occur, the district must develop a corrective action plan and indicate timelines for completion. Findings are then discussed with both the public agency and complainant to provide clarification and closure. Over the past 4 years, the number of complaints in Nevada has doubled each year. Specific reasons for this trend remain undetermined but are most likely associated with state population growth, active parent advocacy, and success of the complaint resolution process. (LP)

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FRONTIER JUSTICE: ADAPTATIONS OF NEVADA'S IDEA COMPLAINT INVESTIGATION PROCESS FOR RURAL/REMOTE AREAS

The Individuals with Disabilities Education Act (IDEA) has had a profound impact on the education of students with disabilities. An important part of this legislation, is the assurance that certain protections will be in place to provide a free and appropriate education (FAPE) to students with disabilities. One avenue of protection is the procedural safeguards that define due process procedures for parents and children. These areas of due process afford parents the opportunity to examine records, the right to independent evaluations, prior notice and parental consent for specific activities in the educational life of the child, content required in notices, the right to an impartial due process hearing, the right to an impartial hearing officer, certain hearing rights, the right to appeal hearing decisions, the right to an impartial review, the right to bring civil action, the right for the student to "stay put" in their current educational setting, the right to a surrogate parent if no parent can be identified or found, and the right to attorney fees under certain circumstances (Federal Regulation 34 CFR 300.500-515). These protections focus upon one specific child and that student's individual education program.

Another avenue of protection is state complaint procedures. This process focuses upon a violation of the requirements of Part B of the IDEA legislation. An organization or individual may file a signed written complaint under procedures that are detailed within Federal Regulation 34 CFR 300.660-300.661. While the complaint might focus on the educational program of one student's individual educational program, the intent is to determine if the educational agency has not followed the provisions of Part B either by lack of policy or procedures for that requirement. The focus of the complaint process is to determine if the public agency has violated a requirement of Part B of IDEA. The Office of Special Education and Rehabilitative Services in the United States Department of Education, in a memorandum dated March 22, 1994, states that the process may also be utilized "to resolve disagreements with public agencies over any matter concerning the identification, evaluation, or educational placement of their child, or the provision of a free and appropriate public education (FAPE) to the child".

The vast size of the state, the remoteness of some locations, the alternative lifestyles found within the state and the pioneer spirit that remains within the state

of Nevada makes investigating complaints a varied and interesting experience. The complaint investigation process spelled out in the Federal regulations are specific in the procedures to be followed. The Nevada Department of Education has designed complaint investigation procedures following those regulations; and, at the same time, integrated them into the Nevada frontier spirit.

A summary of Nevada's Complaint Investigation Process is as follows:

- Step 1: Complaint filed with the Nevada Department of Education (NDOE).
- Step 2: Complaint assigned to NDOE, Special Education Branch.
- Step 3: NDOE-Special Education Branch Team Leader (TL) assigned from branch personnel.
- Step 4: Team Leader (TL) selects an investigative team.
- Step 5: TL communicates with complainant and public agency concerning complaint and schedules an on-site visit.
- Step 6: Investigative team travels to specific location.
- Step 7: Investigative team develops a report of findings.
- Step 8: NDOE-Special Education Branch, via TL, submits report of findings to complainant and public agency.
- Step 9: Corrective-Action Plans, with specific timelines are developed by public agency and filed with NDOE-Special Education Branch when violations are found.

Complaints are first filed with the Nevada Department of Education Superintendent of Public Instruction. These complaints can be initiated by anyone within a community. The complaint must state what regulations the public agency violated and provide facts to support this claim. The complaint investigation is then assigned to Special Education Branch staff. A team leader is assigned from this branch.

The Team Leader (TL) for the investigation makes preparations to carry out the first requirement, an independent on-site investigation. (The Federal regulations describe this requirement as "if necessary"). The team leader contacts the district administrative staff to notify the agency regarding the receipt of the alleged violation(s). This must occur in writing, usually accompanied by a phone call to the district to explain the process and make plans for the on-site visit. The complainant's identity is never divulged. For many rural districts, a complaint is the first occasion that a member of the community has utilized a formal process for resolution of a problem or concern. Frequently district staff and the complainant have no idea what a complaint is, or what the process entails. Preparations must be made for an educational component that will meet the needs of the complainants and district personnel.

The TL builds a team of department staff and others with experience and knowledge of the Federal and state regulations. University staff, parent advocates, and agency personnel may be involved to ensure objectivity. It is the Leaders responsibility to; coordinate travel plans (Nevada provides jet air service ONLY between Las Vegas and Reno, and two smaller communities can be reached by small prop-engine planes), schedule the on-site visit and arrange interviews, determine available resources (computers, Xerox, phones, etc.) and estimate time-lines. The Leader must also review resources that relate to the issues identified in the complaint and provide team members with appropriate materials to conduct the investigation. These resources usually include Individuals with Disabilities Education Act (IDEA), Regulations, Part B, CFR 300; the Nevada Administrative Code for Special Education Programs, Chapter 388; Individuals with Disabilities Education Law Review (IDELR),

EDLAW Briefing Papers, case law, and district policies and procedures. These materials accompany the team to the on-site destination and are utilized extensively during the process.

Once the team arrives on-site, initial meetings are scheduled with district staff to explain and process and determine materials needed to conduct the review. This is largely an educational process for district staff and every attempt is made to alleviate concerns over the process. Arrangements are made to review all written records that apply to the issue and to interview appropriate district staff.

Interviews with the complainant are scheduled at locations off campus and in the community. The complainant could be an individual or an organization. The educational component of the process is the initial order or business.

The review of written records and interviews form the basis of data from which conclusions are drawn to make an independent determination on the public agency's alleged violation of Part B. The conclusions are not reached on-site. Additional discussion occurs between team members once the on-site investigation has concluded and input from each team member considered.

The team must then develop and issue a written decision to the complainant that addresses each allegation in the complaint. If there are areas where the regulations have been violated, an order coming forth from the report might include the development of policy and procedures to ensure compliance with the regulation in the future. The order can also address issues of staff training when necessary. When violations occur the district must develop a corrective action plan and indicate time-lines for completion. There are numerous times when no violation of regulations are found. The findings are then discussed with both the public agency and complainant to provide clarification and closure.

A review of the complaints received over the past four years reveals some interesting trends. The following chart indicates the growth in Nevada:

YEAR	# OF COMPLAINTS	PUBLIC AGENCIES	
		RURAL	URBAN
91-92	2	1	
92-93	4	2	
93-94	13	5	
Fall - 94	10	5	5

The number of complaints filed is approximately doubling each year. Specific reasons remain undetermined but are most likely associated with state population growth, active parent advocacy and/or success of the complaint resolution process.

The issues represented in the complaint investigations are as diverse as the individual needs of students with disabilities. Areas of complaint include: the IEP (annual review, interm IEP's, etc.) failure to provide related services, transportation, suspension-expulsion, failure to provide a continuum of services, "appropriate" programming, etc. While numerous other issues have been addressed no specific trend has been noted.

Numerous adaptations to Nevada's complaint investigative process must be made because of the rural and remote nature of the state. Nevada is a large, diverse

state totaling 110,561 square miles. Traveling by interstate and state highways, the north to south boundaries are approximately (Laughlin turnoff to Jackpot) 569 miles apart and west to east (Lake Tahoe to West Wendover) is 414 miles. Eighty five percent of Nevada's land is owned by the Federal government. The 1990 population was 1,201,833 in 17 counties. 17.4% of the population lives in rural areas, leaving 82.6 % living in the two metropolitan areas of Las Vegas and Reno. Population density is 10.95 persons per square mile which illustrates the uniqueness of the state. The state is experiencing astronomical population growth. From 1980 to 1990, the state population increased by 50.1 percent. The population is anticipated to grow to 2,145,000 within the next twenty-five years.

School districts in the state of Nevada are defined by counties. There are currently 17 county school districts within the state. The total student population is 250,747. They range in student population from approximately 130 students (Esmeralda) to 155,000 students (Clark County). There are 403 schools within the state. Sixty percent of the Nevada school enrollment is in Clark County. Nye County is the largest county in square miles while Carson City (the state capitol) is the smallest.

Gaming and tourism are two of the largest sources of revenue. Additionally, mining, farming and cattle ranches can be found alive and well in the rural areas. Fifteen of Nevada's 17 counties have legalized prostitution. The state is littered with ghost mining towns. And many of the towns boast that they are the burial site of many famous Western characters.

Nevada's complaint investigative process is fairly unique in that it occurs on site. Travel becomes a major problem since airlines only provide service between Reno and Las Vegas, with two smaller communities served by commuter airlines. Distance between towns could be from 50 to 200+ miles with no services in between. In remote areas, four wheel drive vehicles are required, along with the skill to navigate through ice and snow or 120° temperatures. Team members must be adept at changing tires, putting on chains, checking radiators and locating help!

Each specific community has it's own personality and language. Ranching, mining, and gaming reflect the rural culture. It is not uncommon to conduct interviews in the town meeting place (1800's bar replete with "cribs" out back) and sites vary from colorful saloons, church basements, front seat of cars, to libraries. While the locations lend greatly to the enjoyment of the investigation it is also important to recognize that these locations may not have Xerox machines, FAXes, computers, and luxurious accommodations. The team must be flexible and able to deal with extremes in climate, accommodations, resources and people. Business attire, while appropriate in urban locations, are definitely out of place on the back highways. Dressing for survival assumes importance. Schedules and time-lines change as rapidly as the weather.

The Nevada Department of Education, Special Education Branch, along with team members, has developed the "Frontier Justice Survival Kit". This kit is replete with maps, pertinent vocabulary (mining, ranching gaming), "How-to-do/repair" kits, survival equipment, common-sense guidelines, and historical/humorous information about rural/remote sites that help the team adjust to local culture...and survive travel throughout the state. The "Kit" has become an important asset to Nevada's Complaint Investigation process and ensures the individuals involved as team members will be prepared to meet the challenges in the rural and remote areas of the state.